



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0191; FRL-9990-41-Region 5]

**Air Plan Approval; Michigan; Infrastructure SIP Requirements for
the 2012 PM_{2.5} NAAQS; Multistate Transport**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of the State Implementation Plan (SIP) submission from Michigan regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS or standard). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action pertains specifically to infrastructure requirements concerning interstate transport provisions.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0191. All documents in the docket are listed on the www.regulations.gov web site. Although

listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, maietta.anthony@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is being addressed by this document?
- II. What comments did we receive on the proposed action?
- III. What action is EPA taking?

IV. Statutory and Executive Order Reviews.

I. What is being addressed by this document?

On March 23, 2017, the Michigan Department of Environmental Quality (MDEQ) submitted a request for EPA to approve its infrastructure SIP for the 2012 annual PM_{2.5} NAAQS. On November 14, 2018 (83 FR 56777), EPA proposed to approve the portion of the submission dealing with requirements one and two (otherwise known as "prongs" one and two) of the provision for interstate pollution transport under CAA section 110(a)(2)(D)(i), also known as the "good neighbor" provision¹.

The March 23, 2017 MDEQ submittal included a demonstration that Michigan's SIP contains sufficient major programs related to the interstate transport of pollution. Michigan's submittal also included a technical analysis of its interstate transport of pollution relative to the 2012 PM_{2.5} NAAQS that demonstrates that current controls are adequate for Michigan to show that it meets prongs one and two of the "good neighbor" provision. After review, EPA proposed to approve Michigan's request relating to prongs one and two of the "good neighbor" provision.

¹ There are four prongs to the section 110(a)(2)(D)(i) "good neighbor" provision, which are: prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong one); prohibit any source or other type of emissions activity in one state from interfering with maintenance of the NAAQS in another state (prong two); prohibit any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration (PSD) of air quality in another state (prong three); and protect visibility in another state (prong four).

II. What comments did we receive on the proposed action?

Our November 14, 2018 proposed rule provided a 30-day review and comment period. The comment period closed on December 14, 2018. EPA received two supportive comments.

III. What action is EPA taking?

In this action, EPA is approving the portion of Michigan's March 23, 2017 submission certifying that the current Michigan SIP is sufficient to meet the required infrastructure requirements under CAA section 110(a)(2)(D)(i)(I), specifically prongs one and two, as set forth above.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major

rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: February 21, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1170, the table in paragraph (e) under the heading “Infrastructure” is amended by revising the entry for “Section 110(a)(2) Infrastructure Requirements for the 2012 particulate matter (PM_{2.5}) NAAQS” to read as follows:

§ 52.1170 Identification of plan.

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(e) * * *

EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Comments
* * * * *				
Infrastructure				
* *	* *	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2012 particulate matter (PM _{2.5}) NAAQS	Statewide	7/10/2014 and 3/23/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	Fully approved for all CAA elements except the visibility protection requirements of (D) (i) (II).
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